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6 IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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MICHELE SPENCE, et al.,

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Plaintiffs,

No. C 11-04961 JSW

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v.

**SECOND ORDER TO SHOW
CAUSE AND INSTRUCTIONS TO
CLERK TO SERVE PLAINTIFFS'
COUNSEL BY MAIL**

12

BOSTON SCIENTIFIC CORPORATION,

13

Defendant.

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On November 16, 2011, Defendant filed a motion to dismiss, which was noticed for hearing on January 6, 2012. Under the Northern District Local Rules, Plaintiffs' opposition brief was due on November 30, 2011, and Defendant's reply was due on December 7, 2011. Plaintiffs did not file an opposition brief, and they did not file a statement of non-opposition. The Court is aware that there is a motion to transfer pending before the Judicial Panel on Multidistrict Litigation, which is scheduled for oral argument in late January. The parties, however, did not take any action before this Court to stay this action pending resolution of that motion.

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Accordingly, on December 14, 2011, the Court issued an Order directing Plaintiffs to show cause why the Defendant's motion should not be granted as unopposed. Plaintiffs' response to this Order to Show Cause was due by December 21, 2011. The Court also stated that if Plaintiffs sought leave to file a belated opposition to Defendant's motion, or if they sought leave to have the Court defer ruling on the motion, they also needed to file a request demonstrating good cause for their failure to comply with the deadlines set by the Northern

United States District Court
For the Northern District of California

1 District Civil Local Rules. The Court also required Plaintiffs to include a proposed opposition
2 brief with any such request, and that any such request also must be filed with the Court by no
3 later than December 21, 2011.

4 The Court also stated that if the parties were able to reach a stipulation regarding the
5 pending motion to dismiss prior to December 21, 2011, the Court would discharge this Order to
6 Show Cause without further action. The Court has not received a response from Plaintiffs, and
7 it has not received any communications from Defendant.

8 Accordingly, the Court issues this SECOND ORDER TO SHOW CAUSE directing
9 Plaintiffs to show cause why this case should not be dismissed for failure to prosecute or, in the
10 alternative, why Defendant's motion should not be granted as unopposed, or why monetary
11 sanctions should not be imposed for failure to comply with the Court's deadlines and orders.
12 Plaintiffs' response to this Order to Show Cause shall be due on January 6, 2012. Again, if
13 Plaintiffs seek leave to file a belated opposition to Defendant's motion, or if they seek leave to
14 have the Court defer ruling on the motion, they must file a request demonstrating good cause for
15 their failure to comply with the deadlines set by the Northern District Civil Local Rules and the
16 first order to show cause. Plaintiffs also must include a proposed opposition brief or a proposed
17 motion to stay pending transfer with any such request. That request also must be filed with the
18 Court by no later than January 6, 2012.

19 It is FURTHER ORDERED that the Clerk shall serve a copy of this Order on Plaintiffs'
20 counsel by U.S. Mail.

21 **IT IS SO ORDERED.**

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23 Dated: December 22, 2011


24 JEFFREY S. WHITE
25 UNITED STATES DISTRICT JUDGE
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27
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

MICHELE SPENCE et al.

Case Number: CV11-04961 JSW

Plaintiff,

CERTIFICATE OF SERVICE

V.

BOSTON SCIENTIFIC CORPORATION
et al,

Defendant.

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on December 22, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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Thomas J. Brandi
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Dated: December 22, 2011

Jennifer Ottolini

Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk